

JOHN D. HEFFNER, PLLC

1920 N ST., N.W.

SUITE 800

ENTERED
Office of Proceedings

WASHINGTON, D.C. 20036

(202) 263-4180

FAX (202) 296-3939

j.heffner@verizon.net

AUG 25 2003

Part of
Public Record

ORIGINAL



BY HAND

208778

August 25, 2003

Hon. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street
Washington, D.C. 20423-0001

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Office of Proceedings

AUG 25 2003

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Public Record

RE: FD No. 34390, Winchester And Western Railroad Company,
- Acquisition Exemption - Consolidated
Rail Corporation

Dear Mr. Williams:

On behalf of Petitioner Winchester And Western Railroad Company, I am filing an original and ten copies of a verified notice of exemption under 49 CFR 1150.41 for the acquisition by the Winchester And Western Railroad New Jersey Division of a line of railroad of Consolidated Rail Corporation.

I am also enclosing one check payable to the Board for \$1,300 to cover the applicable filing fee and a computer disk formatted in WordPerfect 8.0 containing this filing.

Please date stamp and return one copy of this filing for our records.

FEE RECEIVED

AUG 25 2003

**SURFACE
TRANSPORTATION BOARD**

Enclosures

cc: George Kalapos, Esq.
Phil Light
David C. Ziccardi, Esq.

Sincerely yours,

John D. Heffner
John D. Heffner

FILED

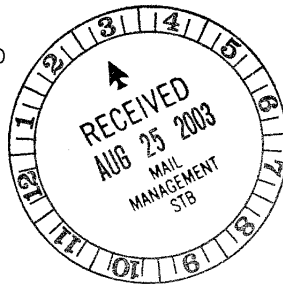
AUG 25 2003

**SURFACE
TRANSPORTATION BOARD**

BEFORE THE
SURFACE TRANSPORTATION BOARD

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STB FINANCE DOCKET NO. 34390

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TRANSPORTATION BOARD

WINCHESTER AND WESTERN RAILROAD COMPANY
NEW JERSEY DIVISION
-- ACQUISITION EXEMPTION --
CONSOLIDATED RAIL CORPORATION

ENTERED
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VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 U.S.C. 10902 and 49 CFR 1150.41

NOTICE OF ACQUISITION OF RAIL LINE
INFORMATION REQUIRED BY 49 CFR 1150.43

Submitted By:

John D. Heffner
John D. Heffner, PLLC
1920 N Street, N.W.
Suite 800
Washington, D.C. 20036
(202) 263-4180

Counsel for Petitioner

Dated: August 25, 2003

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 34390



WINCHESTER AND WESTERN RAILROAD COMPANY
NEW JERSEY DIVISION
-- ACQUISITION EXEMPTION --
CONSOLIDATED RAIL CORPORATION

VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 U.S.C. 10902 and 49 CFR 1150.41

NOTICE OF ACQUISITION OF RAIL LINE

INFORMATION REQUIRED BY 49 CFR 1150.43

Name and Address of Applicant **49 CFR 1150.43(a)**

Winchester And Western Railroad Company
258 Elm Street
New Canaan, CT 06840

Applicant's Representative **49 CFR 1150.43(b)**

John D. Heffner
John D. Heffner, PLLC
1920 N Street, N.W.
Suite 800
Washington, D.C. 20036
(202) 263-4180

Statement of Agreement(s) **49 CFR 1150.43(c)**

Winchester And Western Railroad Company ("W&W") has

executed an agreement with Consolidated Rail Corporation ("Conrail")¹ for W&W to purchase a portion of a line of railroad known as Conrail's Millville Industrial Track. W&W currently operates over this line under an interchange agreement with Conrail.

The line to be purchased consists of approximately 1.4 miles of track and right of way extending between MP 39.4 and MP 40.8 in the City of Millville, Cumberland County, NJ.² The subject track begins at Conrail MP 39.4 located between Conrail's Millville Yard and Second Street and ending at MP 40.8 located south of the intersection of Sixth Street and Smith Street. Conrail reserves unto itself a permanent freight operating easement beginning at MP 39.4 and extending south and consisting of sufficient footage of track to accommodate headroom or tailroom for an approximate 100 car unit train, being approximately 6,000 feet in length. This easement shall facilitate Conrail switching and train movements in the yard. Otherwise, Conrail will not provide rail service over the line.

W&W plans to commence operations on or about September 2, 2003.

Operator of the Property

49 CFR 1150.43(d)

¹ Conrail's address is 2001 Market Street, 16th Floor, Philadelphia, PA 19103.

² Included in the acquisition is a short stub-ended spur extending down to Second Street. This spur does not currently serve any customers.

In all cases anticipated by this Notice, and as described in the transaction summary provided below, W&W will hold itself out to provide common carrier rail freight service over the subject rail facilities.

Brief Summary of Transaction

49 CFR 1150.43(e)

W&W is a long established class III short line railroad with two separate operating divisions, the Winchester And Western Railroad Virginia Division and the Winchester And Western New Jersey Division. As relevant here, the Winchester And Western New Jersey Division presently owns and operates a series of branch lines in southern New Jersey, totaling approximately 43 miles in length including a line between Millville and Dorchester, NJ. The subject acquisition will give W&W ownership of trackage currently owned by Conrail over which W&W presently operates under an interchange agreement. This acquisition will facilitate W&W's access to Conrail's Millville Yard where interchange presently takes place and will allow Conrail to shed track it no longer needs to provide common carrier service.

This transaction qualifies for a class exemption under 49 CFR 1150.41 et seq., because it involves the acquisition of a rail line by an existing class III short line rail carrier which presently operates over that trackage.

Map

49 CFR 1150.43(f)

A series of Maps depicting the line to be acquired is attached as Exhibit A.

Certificate of Carrier Classification **49 CFR 1150.43(g)**

W&W hereby certifies that, with this acquisition, its projected annual revenues will still be less than \$5,000,000 annually. A certificate complying with the provisions of 49 CFR 1150.43(g) is attached as Exhibit B to this notice.

Labor Protection

Under 49 U.S.C. 10902 labor protective conditions do not apply and will not be imposed. In any event, no employees will be adversely affected.

Caption Summary

49 CFR 1150.44

A caption summary in the prescribed form is attached as Exhibit C to this Notice.

Environmental and Historic Preservation Data **49 CFR 1105**

Pursuant to 49 CFR 1105.6(c)(2), the proposed transaction is exempt from environmental review under 49 CFR 1105(c)(2)(i), because the actions proposed herein will not cause any operating changes that exceed the thresholds established in 1105.7(e)(4) or (5).

In addition, this transaction is exempt from historic

review under 1105.8(b)(1). Under this section, a sale, lease or transfer of a rail line is exempt if rail operations will continue. Further Board approval is required for the parties to abandon service, and there are no plans to dispose of or alter the properties subject to Board jurisdiction.

Respectfully submitted,

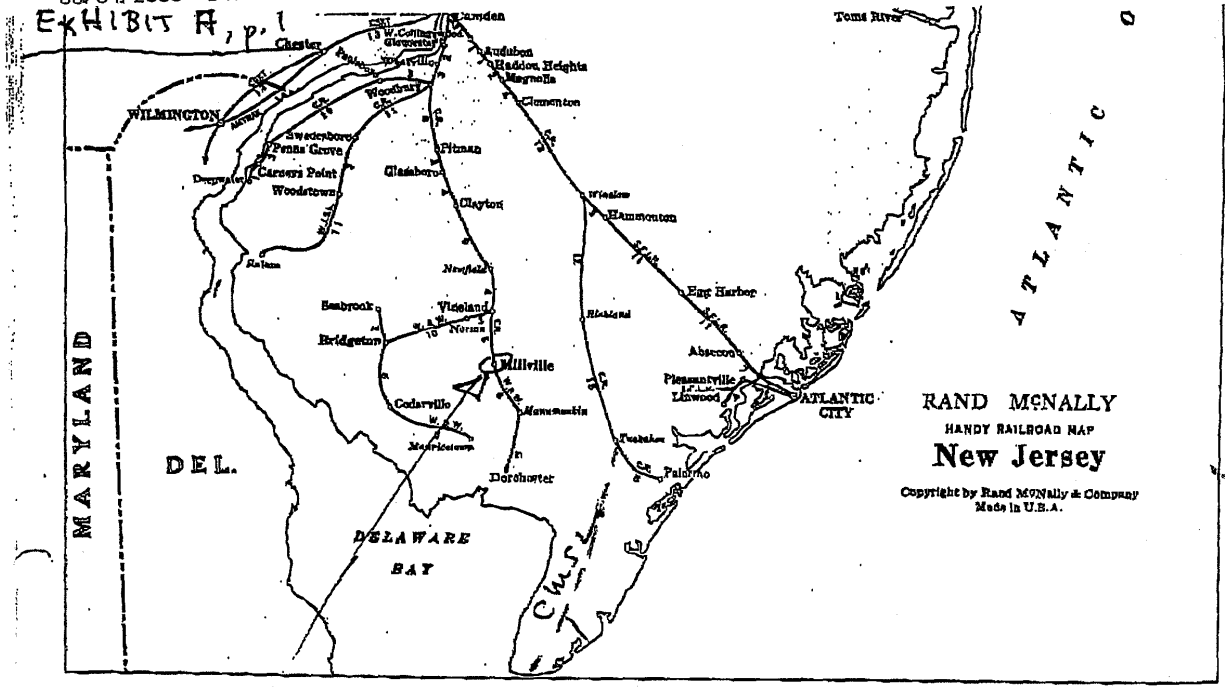
A handwritten signature in black ink, appearing to read 'John D. Heffner', with a stylized flourish at the end.

John D. Heffner
John D. Heffner, PLLC
1920 N Street, N.W.
Suite 800
Washington, D.C. 20036
(202) 263-4180

Counsel for Petitioner

Dated: August 25, 2003

EXHIBIT A, p. 1



Location of track to be acquired

EXHIBIT A, P. 2

MILLVILLE, CUMBERLAND COUNTY, NEW JERSEY

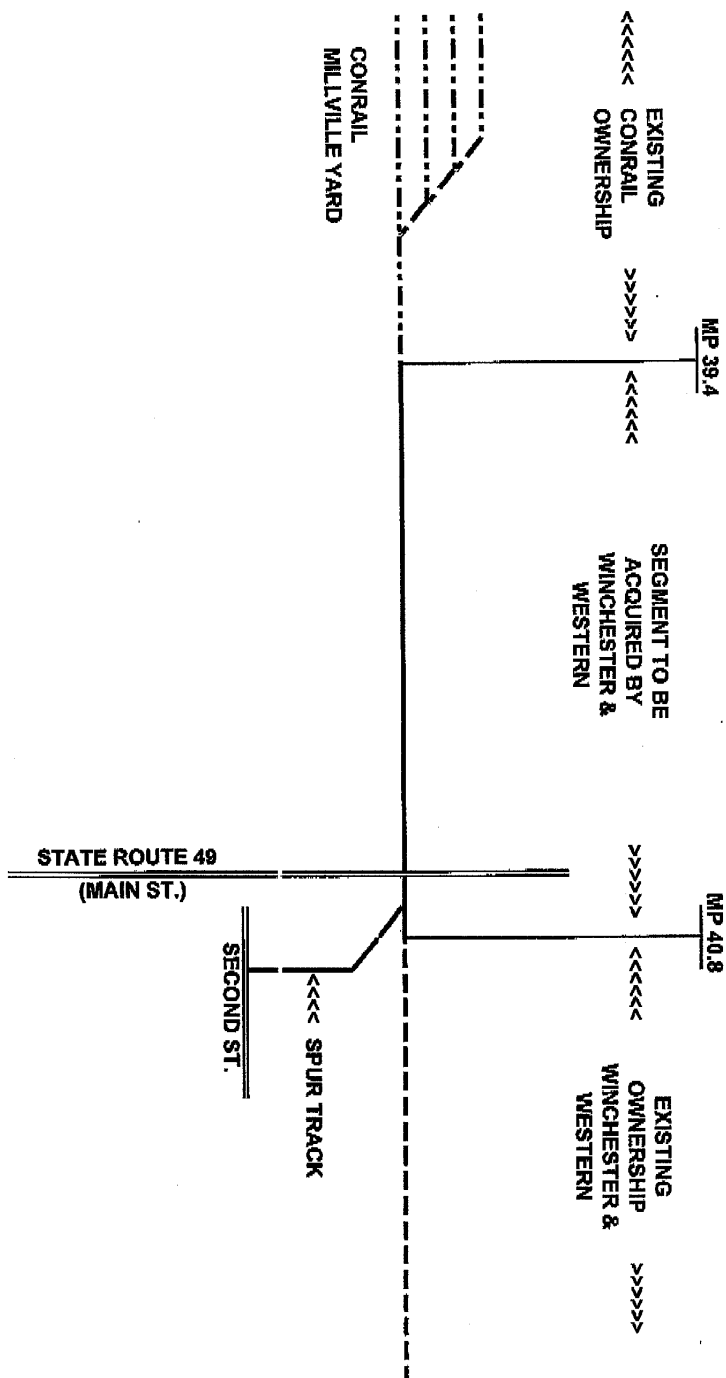


EXHIBIT B

CERTIFICATION

I, William P. LIGHT, an officer of the
WINCHESTER AND WESTERN RR "WW" hereby certify under
penalty of perjury that the projected annual revenues of
WW, in the aggregate, will not exceed \$5,000,000, and
that WW will be a Class III rail carrier as set
forth at 49 CFR 1201 (1-1) (a). Further, I certify that I am
qualified and authorized to make this certification on behalf of
WW.


Signature

EXHIBIT C

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 34390

WINCHESTER AND WESTERN RAILROAD COMPANY
NEW JERSEY DIVISION
-- ACQUISITION EXEMPTION --
CONSOLIDATED RAIL CORPORATION

VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 U.S.C. 10902 and 49 CFR 1150.41

NOTICE OF ACQUISITION OF RAIL LINE

The Winchester And Western Railroad Company ("W&W"), an existing class III short line railroad, has filed a Verified Notice of Exemption under 49 CFR 1150.41 to acquire the following rail property known as a portion of the Millville Industrial Track of Consolidated Rail Corporation:

A line of railroad approximately 1.4 miles of track extending between MP 39.4 and MP 40.8 in the City of Millville, Cumberland County, NJ. The subject track begins at Conrail MP 39.4 located between Conrail's Millville Yard and Second Street and ending at MP 40.8 located south of the intersection of Sixth Street and Smith Street.¹

¹ Conrail reserves unto itself a permanent freight operating easement beginning at MP 39.4 and extending south and consisting of sufficient footage of track solely to accommodate headroom or tailroom for an approximate 100 car unit train, being approximately 6,000 feet in length. The property to be acquired also includes a short stub-ended spur track.

W&W intends to consummate this transaction on or about September 2, 2003.

This notice is filed under 49 C.F.R. 1150.41. If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34390 must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1925 K Street, N.W., Washington, D.C. 20423-0001. In addition, a copy of each pleading must be served on:

For Winchester And Western:
John D. Heffner, Esq.
John D. Heffner, PLLC
1920 N Street, N.W.
Suite 800
Washington, D.C., 20036
Telephone: (202) 263-4180

For Consolidated Rail Corporation:
David C. Ziccardi, Esq.
Associate General Counsel
Consolidated Rail Corporation
2001 Market Street, 16th Floor
Philadelphia, PA 19103
Telephone: (215) 209-5028

(seal)

Vernon A. Williams
Secretary

STATE OF VIRGINIA,
CITY OF WINCHESTER

William P. Sykes

Notary Public

My Commission Expires December 31, 2004
My Commission expires: